IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 400 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE H.K.RATHOD

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT AGRICULTURAL UNIVERSITY - Petitioner(s)

Versus

LAKHABHAI VALERABHAI VALA - Respondent(s)

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Appearance :
MR DG CHAUHAN for Petitioner(s) : 1,
MR PH PATHAK for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE H.K.RATHOD

Date : 21/02/2006

ORAL JUDGMENT

1.The learned Advocate, Mr.D.G.Chauhan appearing on

behalf of the petitioner and Mr.P.H.Pathak appearing on behalf of the respondent-workman. In the present petition, the petitioner-University has challenged the award passed by the Labour Court, Amreli in Reference (LCA) No.2 of 1999 (Old No.25 of 1990) vide Exh.47 dated 17th May 2003. The Labour Court, Amreli has granted benefit to the workman-Lakhabhai Valerabhai Vala on the basis of the decision of Apex Court reported in 2001(3) SCC 574 Gujarat Agricultural University V/s. Rathod Labhu Bechar and others.

2.The learned Advocate, Mr.D.G.Chauhan appearing on behalf of the petitioner has submitted that this petition is filed for challenging the direction granting the benefit to the workman from the date of entry in service except that there is no dispute about implementation of the Apex Court's decision in favour of workman as referred above.

3.The learned Advocate, Mr.P.H.Pathak appearing on behalf of respondent-workman has submitted that

workman is already retired from service on 30th July 2003 and subsequently he expired. The order of retirement of respondent-workman-Lakhabhai Valerabhai Vala dated 30th July 2003 is taken on record. The learned Advocate, Mr.D.G.Chauhan submitted that according to the Supreme Court's decision, as referred above, all the benefits have been paid to the concerned workman before his retirement. Therefore, in view of these facts, when Labour Court, Amreli granted benefit beyond the order of Apex Court cannot be sustained and therefore, award passed by the Labour Court which is contrary to the direction issued by the Supreme Court in above referred case hence, the workman-Lakhabhai Valerabhai Vala is entitled to the benefit of decision of Apex Court in case of Gujarat Agricultural University V/s. Rathod Labhu Bechar and others reported in 2001(3) SCC 574.

4. In view of these facts, it is directed to the petitioner to pay whatever benefit is available as per the aforesaid decision of Apex Court to the

concerned workman-Lakha Valera or his legal heirs if at all that benefit is not paid by the petitioner to the concerned workman. In view of this direction, the award passed by the Labour Court, Amreli dated 17th May 2003 is modified to that effect. Present petition is parly allowed. Rule is made absolute to that extent. No order as to costs.

(H.K.RATHOD,J.)

mrpandya*